

REMARKS

Claims 1-50 have been amended. No claims have been added or cancelled. Therefore, claims 1-50 are pending in the application.

Double Patenting Rejections:

The Examiner rejected claims 1 and 14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 7 of pending U.S. Patent Application No. 10/087,652. The Examiner also rejected claims 1, 14, 26, 29 and 40 as being unpatentable over claims 1, 7, 15 and 21 of pending U.S. Patent Application No. 10/087,224 and claims 1, 7, 15 and 21 of pending U.S. Patent Application No. 10/087,225. The 10/087,652, 10/087,224, 10/087,225 references are all pending patent applications, not issued patents. Therefore, according to M.P.E.P 804.I.B the double patenting rejections are "provisional" double patenting rejections. If and/or when any of these rejections become non-provisional, Applicants will consider filing a terminal disclaimer or present reasons traversing the rejections.

Section 101 Rejection:

The Examiner rejected claims 1-39 under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants respectfully traverse the rejection of claims 1-39 for at least the following reasons.

The Examiner asserts that claims 1-28 "are directed to methods steps which can be practiced mentally in conjunction with pen and paper" and that therefore they are directed to non-statutory subject matter. However, claims 1-28 are not directed to method steps, but instead, are directed to physical systems. For instance, independent claims 1, 14 and 26 are directed to systems each including a distributed store and a plurality of application servers. The Examiner also contends that claims 1-28 do not define a machine or computer implemented process. To the contrary, as is known by

anyone of ordinary skill in the art, both distributed stores and application servers include hardware necessary to implement their functionality. Thus, claims 1-28 clearly do define a machine or manufacture under 35 U.S.C. § 101. Independent claims 1, 14 and 26, as well as claims 2-13, 15 – 25, and 27-28, which depend respectively from claims 1 and 14, are clearly directed to statutory subject matter.

The Examiner also rejected claims 29-38 as “directed to method steps which can be practiced mentally in conjunction with pen and paper.” However, MPEP 2106.IV.B.2.(b) states that a process is statutory if it is “limited to a practical application in the technological arts” regardless of whether or not there is any pre- or post- process activity. The most famous example of this category is found in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368, 47 USPQ2d 1596 (Fed. Cir. 1998) as discussed in MPEP 2106 where the court stated that the relevant claim was statutory because “the transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application ... because it produces ‘a useful, concrete and tangible result’ – a final share price”. Just like transforming data representing discrete dollar amounts to determine a final share price was considered a practical application and thus statutory in *State Street*, the tracking of mutable accesses of attributes, performing object graph comparisons to determine modified attributes, and synchronizing session data according to the modified attributes, wherein the primary state of the session data is accessible by a plurality of application servers, recited in claim 29, is a practical application in the technological arts producing a useful, concrete and tangible result – synchronized session data. Thus, claims 29-38 are clearly statutory.

Furthermore, MPEP 2106.II.A states: “Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejection under 35 U.S.C. 101.” (emphasis added). As discussed above, claim 29 clearly recites a practical application in the technological arts.

Therefore, for at least the reasons presented above, the § 101 rejection of claims 1-38 is improper and removal thereof is respectfully requested.

Section 112, Second Paragraph, Rejection:

Section 8 of the Office Action rejected claims 1-28 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner objects to various instances of the phrase “session data” and states that it is not clear whether “session data” refers to a client state or a primary state of session data. Accordingly, claims 1-28 have been amended to overcome this rejection.

Section 103(a) Rejections:

Section 10 of the Office Action rejected claims 1, 3-7, 9, 10, 13, 14, 16-19, 21, 22, 25-29, 31-34, 36, 39, 40, 42-45, 47 and 50 under 35 U.S.C. § 103(a) as being unpatentable over Courts (U.S. Patent 6,360,249) in view of Zaiken (U.S. Patent 5,907,848).

Regarding claim 1, contrary to the Examiner’s assertion, Courts in view of Zaiken fails to teach or suggest an application server configured to “track mutable accesses of the attributes in the client state of the session data”. The Examiner cites, column 8, lines 10-65 of Courts. However, the cited passage fails to mention tracking mutable access of attributes in the client state of the session data. Instead, Courts teaches only that session data is downloaded from global session server 220 and provided to render engine 212 (see, e.g. Courts, column 8, lines 15-24 and lines 59-64). Court is silent with regard to an application server configured to “track mutable accesses of the attributes in the client state of the session data”. Zaiken also fails to mention anything regard tracking mutable accesses of attributes in the client state of the session data and thus fails to overcome any of Courts’ deficiencies regarding tracking mutable accesses of attributes in the client state of the session data. Thus, Courts and Zaiken, both singly and in combination fail to teach

an application server configured to track mutable accesses of the attributes in the client state of the session data.

Furthermore, Courts in view of Zaiken also fails to teach or suggest an application server configured to perform an object graph comparison of mutably accessed attributes of the client state of the session data with a benchmark version of the client state of the session data to determine a subset of modified attributes. The Examiner admits that Courts does not teach or suggest performing an object graph comparison of the mutably accessed attributes. The Examiner relies upon column 10, lines 1-30 of Zaiken and argues that Zaiken “teaches the step of comparison [sic] current and previous version[s] of data in the session.” Specifically, the Examiner states that Zaiken teaches comparing the data values stored in the record with previously stored data values.

However, the Examiner’s cited passage of Zaiken fails to mention performing an object graph comparison of mutably accessed attributes. Instead, Zaiken, at column 10, lines 7-14 describes retrieving data fields from a database which correspond to the data values stored in a log record and comparing the data fields to a key value for the template having a specified template ID. Zaiken further states, “[I]f none of the data fields match the key value, then the transaction template is complete because the job identifier is not performing an action that belongs to another transaction or does not belong to any transaction.” Clearly, comparing database record fields with template key values to determine whether a transaction template is complete is very different from performing an object graph comparison of mutably accessed attributes. Nowhere does Zaiken mention performing such an object graph comparison nor does Zaiken describe comparing the data fields to key values as performing an object graph comparison.

Neither Court nor Zaiken, neither singly nor in combination, teaches nor suggests an application server configured to perform an object graph comparison of mutably accessed attributes of the client state of the session data with a benchmark version of the client state of the session data to determine a subset of modified attributes, as recited in claim 1.

Thus, for at least the reasons given above, the rejection of claim 1 is not supported by the cited prior art and removal thereof is respectfully requested. Remarks similar to those above regarding claim 1 also apply to claims 14, 29 and 40.

Regarding claim 26, Regarding claim 1, contrary to the Examiner's assertion, Courts in view of Zaiken fails to teach or suggest means for an application server to "track mutable accesses of the attributes in the client state of the session data". As noted above regarding claim 1, Court fails to mention tracking mutable access of attributes in the client state of the session data. Instead, Courts teaches only that session data is downloaded from global session server 220 and provided to render engine 212 (*see, e.g.* Courts, column 8, lines 15-24 and lines 59-64). Court is silent with regard to an application server configured to "track mutable accesses of the attributes in the client state of the session data". Zaiken also fails to mention anything regard tracking mutable accesses of attributes in the client state of the session data and thus fails to overcome any of Courts' deficiencies regarding tracking mutable accesses of attributes in the client state of the session data. Thus, Courts and Zaiken, both singly and in combination fail to teach an application server configured to track mutable accesses of the attributes in the client state of the session data.

Therefore, the rejection of claim 26 is not supported by the prior art and removal thereof is respectfully requested.

The Examiner rejected claims 2, 15, 30 and 41 as being unpatentable over Courts in view of Zaiken and in further view of Johnson (U.S. Patent 5,721,943), claims 8, 20, 35 and 46 as being unpatentable over Courts in view of Zaiken and in further view of Edwards (U.S. Patent 6,594,686), and claims 11, 12, 23, 24, 37, 38, 48 and 49 as being unpatentable over Courts in view of Zaiken and in further view of Jackson (U.S. Pub 2003/0051145). Applicants traverse these rejections for at least the reasons given above in regard to the independent claims.

Applicants also assert that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicants hereby petition for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-07800/RCK.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Notice of Change of Address
- ☒ Information Disclosure Statement

Respectfully submitted,



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